

AUG 27 2003

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON

U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

CANDELARIA GONZALEZ MIGUEL,

Petitioner,

v.

IMMIGRATION AND NATURALIZATION
SERVICE,

Respondent.

No. 02-71385

Agency No. A70-786-202

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Argued and Submitted July 16, 2003**
Pasadena, California

Before: NOONAN, KLEINFELD, and WARDLAW, Circuit Judges.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Gonzalez Miguel admits she received notice of the hearing she missed. We are compelled under the language of the statute to conclude that confusion about the date does not constitute “exceptional circumstances” under 8 U.S.C. § 1229a(e)(1).¹ Singh v. INS is distinguishable because there the alien was concededly eligible for adjustment of status.² The BIA rejected the Convention Against Torture claim on the basis it was abandoned when Gonzalez Miguel missed her hearing. She does not address this issue on appeal, and so it is waived.³ The Nicaraguan Adjustment and Central American Relief Act of 1997⁴ is not constitutionally infirm.⁵

AFFIRMED.

¹ See Sharma v. INS, 89 F.3d 545 (9th Cir. 1996).

² 295 F.3d 1037, 1039 (9th Cir. 2002).

³ Martinez-Serrano v. INS, 94 F.3d 1256, 1259 (9th Cir. 1996).

⁴ Pub. L. 105-100, as amended by Pub. L. 105-139.

⁵ See Jiminez-Angeles v. Ashcroft, 291 F.3d 594 (9th Cir. 2002), Ram v. INS, 243 F.3d 510 (9th Cir. 2001).